

Glaser Weil Fink Jacobs  
Howard Avchen & Shapiro LLP

William E. Dysart, State Bar No. 042608  
Alexander T Gruft, State Bar No. 223096  
WRIGHT & L'ESTRANGE  
401 West A Street, Suite 2250  
San Diego, CA 92101  
Telephone: (619) 231-4844  
Facsimile: (619) 231-6710

Patricia L. Glaser, State Bar No. 55668  
G. Jill Basinger, State Bar No. 195739  
James T. Grant, State Bar No. 155831  
GLASER WEIL FINK JACOBS  
HOWARD AVCHEN & SHAPIRO LLP  
10250 Constellation Boulevard, 19th Floor  
Los Angeles, California 90067  
Telephone: (310) 553-3000  
Facsimile: (310) 556-2920

Attorneys for Plaintiff  
SEA PRESTIGIO, LLC

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

SEA PRESIDIO, LLC, a Delaware  
limited liability company,

CASE NO. 3:10-CV-02412-BTM (AJB)

Plaintiff,

**IN ADMIRALTY**

**PLAINTIFF'S STATUS REPORT**

v.

Complaint Filed: November 23, 2010  
Action Stayed: April 11, 2011  
Trial Date: May 9, 2011 (vacated)

M/Y TRITON, Republic of Marshall  
Islands (Official No. 70070), Its  
Engines, Machinery, Appurtenances,  
etc., *In rem*; SPEARFISH  
VENTURES, LTD., a British Virgin  
Islands Company; FBP  
INVESTMENTS, LP, a Delaware  
limited partnership; JAMES P.  
BALDWIN, as co-trustee of the  
James P. Baldwin Trust No. 1 and  
Nancy L. Baldwin Trust No. 1;  
NANCY L. BALDWIN, as co-trustee  
of the James P. Baldwin Trust No. 1  
and Nancy L. Baldwin Trust No. 1;  
CACHAL INVESTMENTS, S. DE  
R.L. DE C.V., a Mexican corporation,  
*In Personam*, and DOES 1-10,

Defendants.

1 Plaintiff Sea Prestigio, LLC (“Plaintiff”) submits the following status report to  
2 inform the Court that on February 17, 2012—ten days before the scheduled trial in the  
3 related action entitled *FBP Investments, LP, et al. v. Sea Prestigio, LLC, et al.*,  
4 Orange County Superior Court, Case No. 30-2010-00420336 (the “State Action”)—  
5 Defendants filed a “motion *in limine*” to have this dispute resolved by a private judge  
6 in a judicial reference proceeding rather than before a jury in state court,  
7 notwithstanding repeated representations by Defendants that they sought a jury trial  
8 and desired swift resolution.

9 On April 11, 2011, two weeks before the April 25, 2011 hearing on the parties’  
10 cross-motions for summary judgment, and a month before the *expedited* trial of any  
11 remaining claims and issues in this action (May 9, 2011), the Court granted  
12 Defendants’ motion to stay this action so that Defendants (as plaintiffs in the State  
13 Action) could purportedly have *the state court* adjudicate all state law claims, issues  
14 and defenses between the parties in the State Action. [Stay Motion, p. 10, lines 10-  
15 14; Docket No. 44-1 (“Once the state court renders a decision on the state law claims,  
16 the stay can be lifted and the Federal Action can resume to determine the remedy, if  
17 necessary . . . . [s]taying this Federal Action conserves this Court’s time and  
18 resources, while the state court determines claims under its purview.”).]

19 In its order, the Court underscored the importance of a speedy resolution,  
20 expressly requesting “that the Orange County Superior Court issue an expedited case  
21 management schedule that would allow it to decide this case as quickly as possible.”  
22 [April, 11, 2011 Order re Application to Stay Action, p. 8.] Before the Court ordered  
23 the stay, Defendants did not disclose any intention to have their claims adjudicated by  
24 a judicial referee rather than a state court and, as a result, Plaintiff was unable to  
25 address this issue in opposition to Defendants’ stay motion. Indeed, Defendants made  
26 repeated representations that this case would be tried by a state court jury.

27 In the State Action, the parties litigated for more than fifteen months,  
28 completing percipient witness as well as expert discovery, with the state court

1 receiving and ruling on motions for the summary judgment. Both parties consistently  
2 and repeatedly demanded a jury trial in both this action and the State Action. [*See*,  
3 *e.g.*, Defendants' Verified Answer, Docket 34.] The court in the State Action set a  
4 trial date for February 26, 2012.

5 On February 17, 2012, ten days before the scheduled trial, on the date when  
6 Defendants served their motions *in limine* in the State Action, Defendants served a  
7 motion to enforce the judicial reference provision in the parties' loan agreement  
8 pursuant to California Code of Civil Procedure Section 638. This was the first time  
9 that Defendants raised the prospect of judicial reference in this litigation. The court  
10 in the State Action requested briefing on the judicial reference issue and set a new  
11 trial date on March 26, 2012. On March 23, 2012, the state court heard and granted  
12 Defendants' motion for judicial reference over Plaintiffs' opposition.

13 Thereafter, the parties selected the Hon. Edward J. Wallin (Ret.) as the judicial  
14 referee to resolve all claims pursuant to their loan agreement and California Code of  
15 Civil Procedure § 638 *et seq.* To the extent that this selection process does not result  
16 in swift and expeditious resolution of the disputes, Plaintiff reserves its right to seek a  
17 lift of the stay and to request a trial date in this Court to resolve all claims between the  
18 parties.

19 Dated: April 3, 2012

Respectfully submitted,

21 GLASER WEIL FINK JACOBS,  
22 HOWARD AVCHEN & SHAPIRO LLP

23  
24 By: /s/ G. Jill Basinger  
25 Patricia L. Glaser  
26 G. Jill Basinger  
27 John K. Ly  
28 Attorneys for Plaintiff  
SEA PRESTIGIO, LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel who have consented to electronic service are being served with a copy of the foregoing document via the Southern District of California CM/ECF system on April 3, 2012.

/s/ James T. Grant  
James T. Grant

Glaser Weil Fink Jacobs  
Howard Avchen & Shapiro LLP